December 1, 2008 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Monday, December 1, 2008 at 7:00 P.M.

Council President Christopher T. Semonelli, Presiding

**Vice Chairman Richard Cambra** 

**Councillor Frank A. Bozyan** 

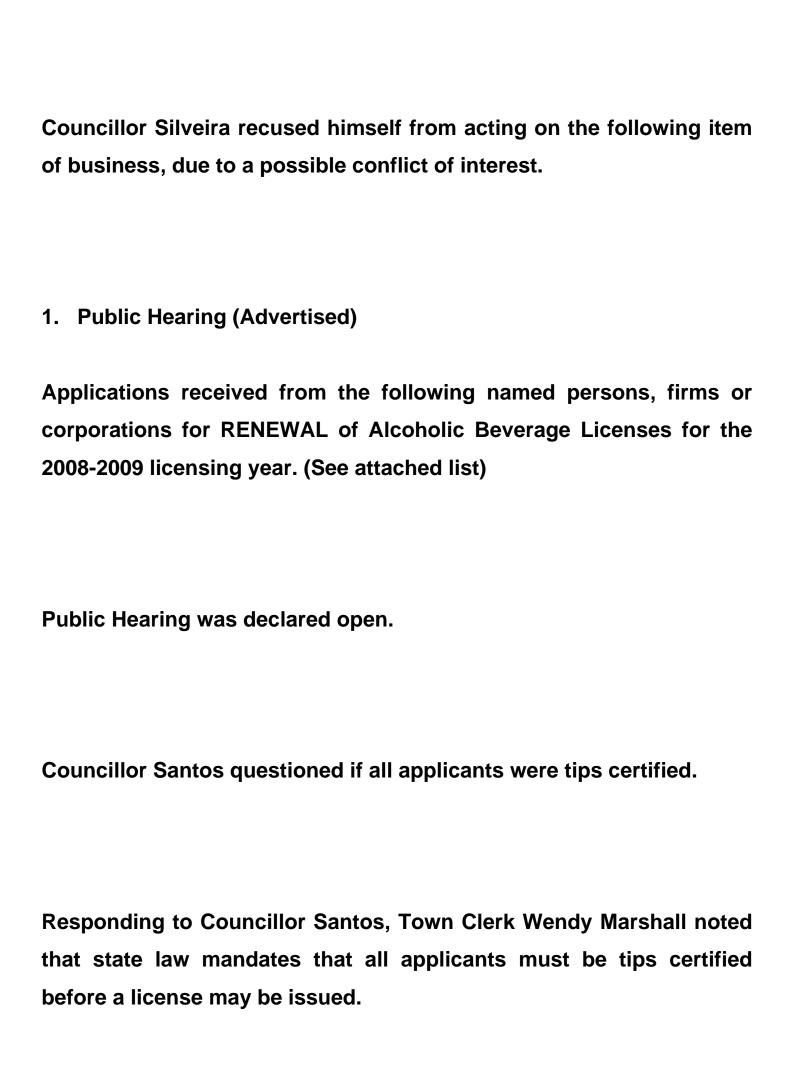
**Councillor M. Theresa Santos** 

Councillor Edward J. Silveira, Jr.

Councillor Robert J. Sylvia

Councillor Barbara A. VonVillas, Members Present

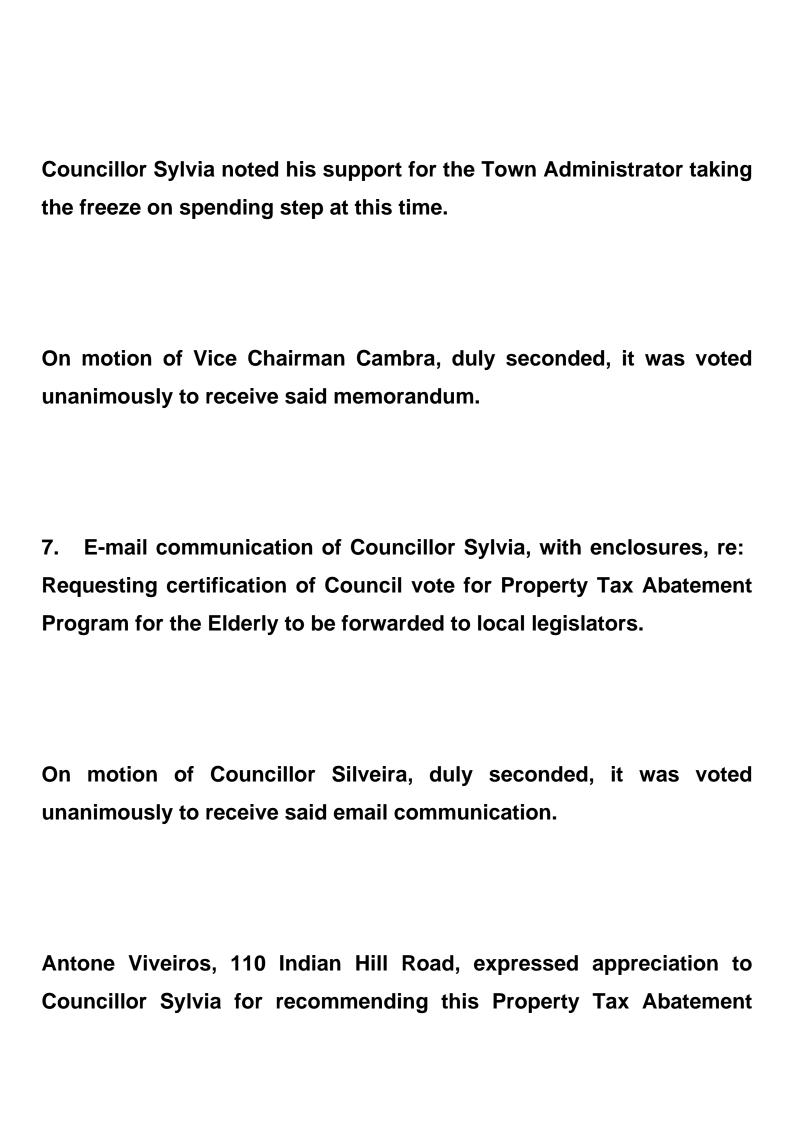
**ACTING AS A BOARD OF LICENSE COMMISSION** 

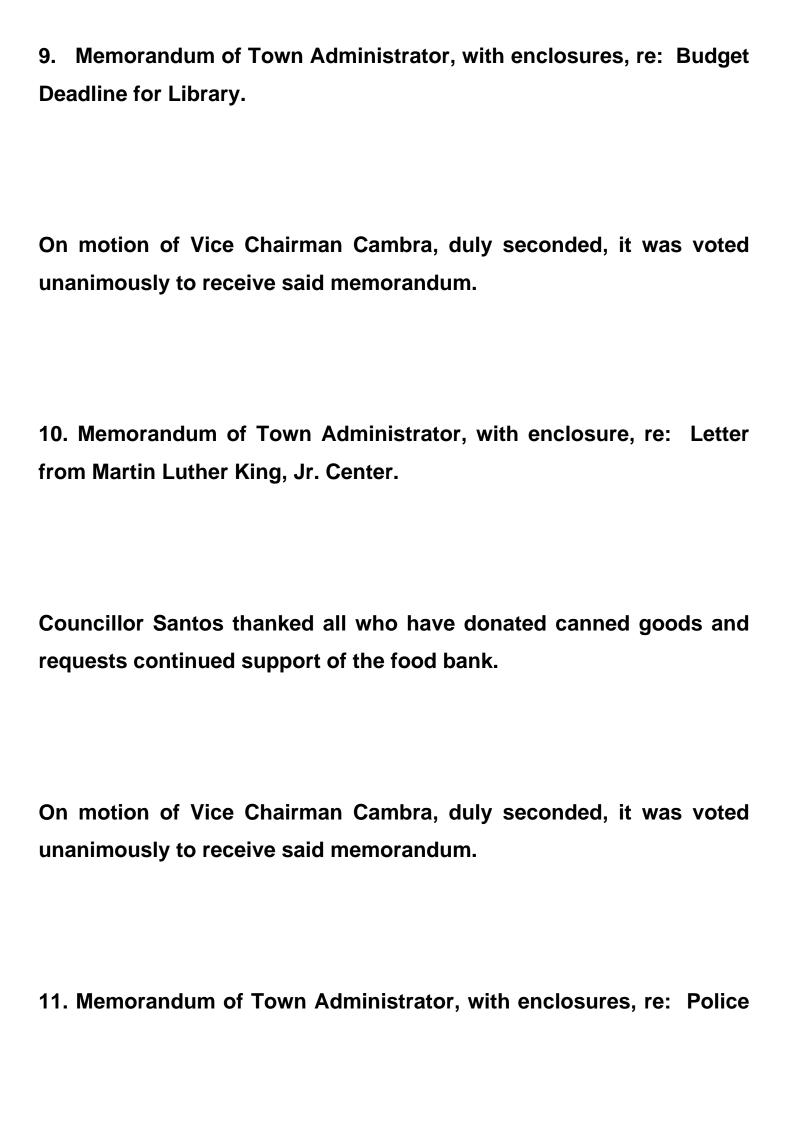


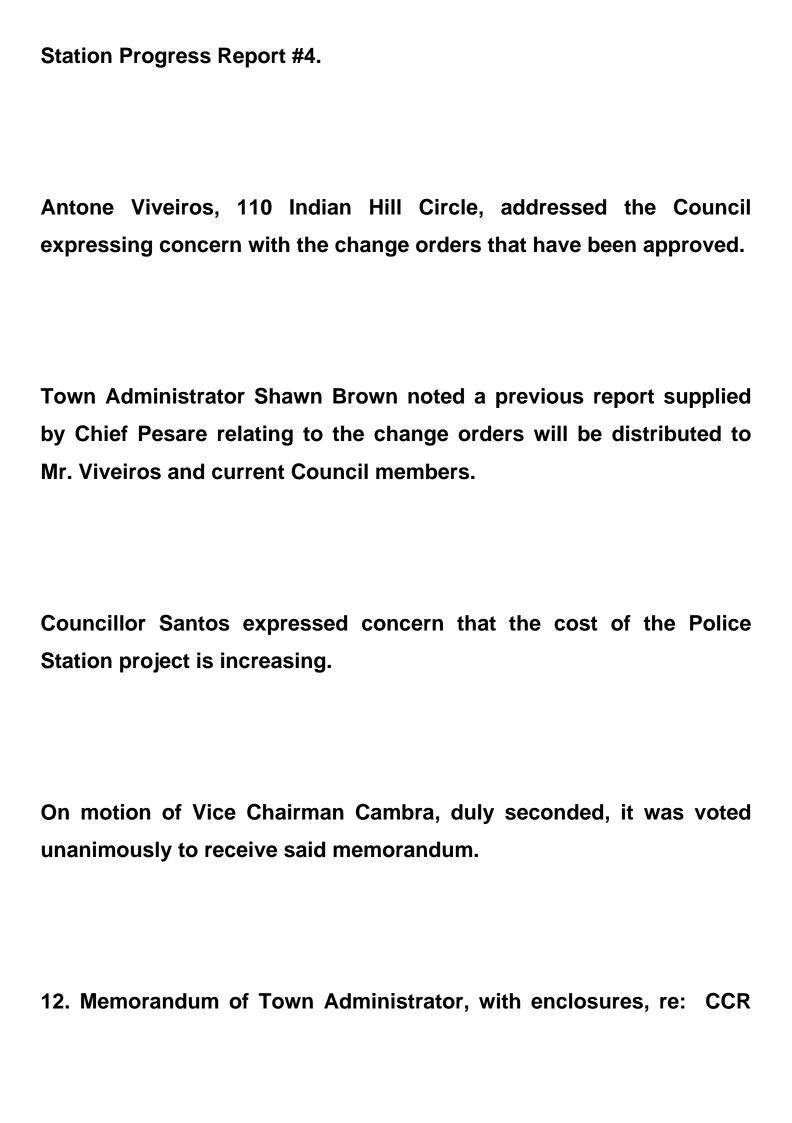
There being no other person desiring to be heard, public hearing was declared closed.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license renewals.
CONSENT CALENDAR
Councillor Santos requested that item #10 be heard under the Town Council portion of the docket.
Councillor Sylvia requested that items #6, #7 and #11 be heard under the Town Council portion of the docket.

1. Approval of Minutes – Regular Meeting, November 3, 2008.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.
2. Approval of Minutes – Special Meeting, November 12, 2008.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.
3. Approval of Minutes – Special Meeting, November 16, 2008.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

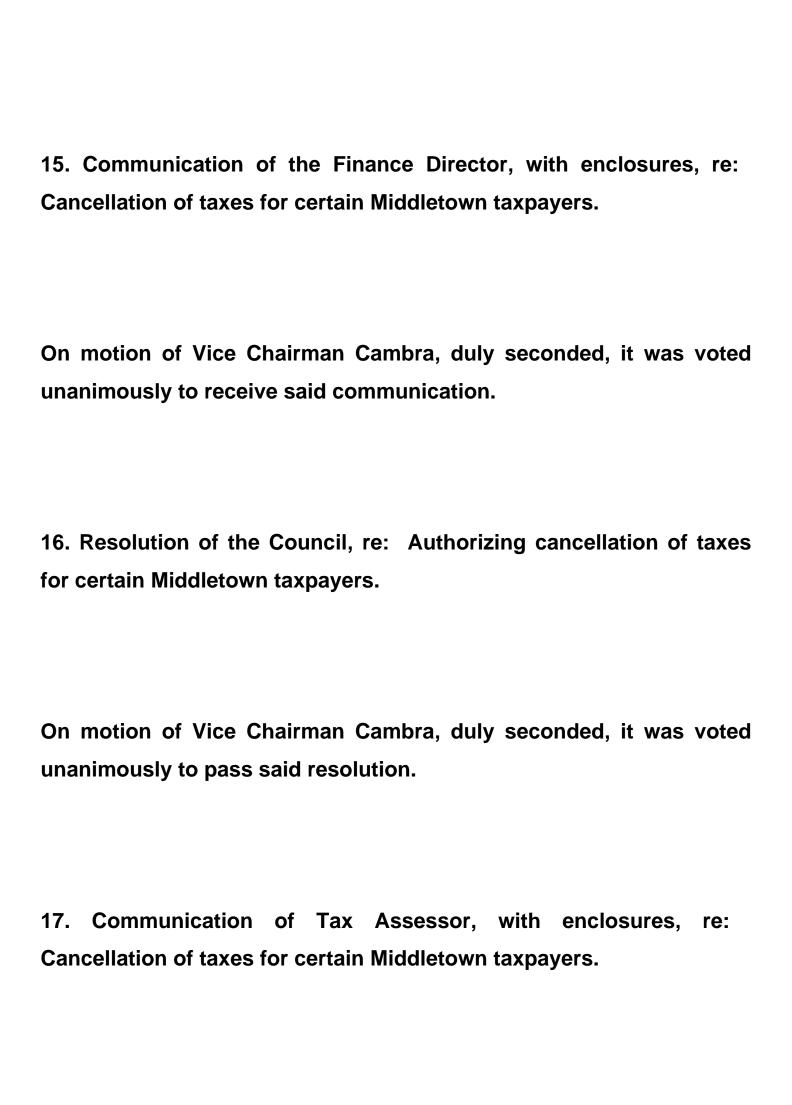
4. Approval of Minutes – Inauguration, November 17, 2008.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.
5. Approval of Minutes – Special Meeting, November 22, 2008.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.
6. Memorandum of Town Administrator, re: Freeze on spending.
Antone Viveiros, 110 Indian Hill Road, addressed the Council noting his support for the suggested constraints, however, also suggests no overtime except for emergencies and putting Town projects on hold.

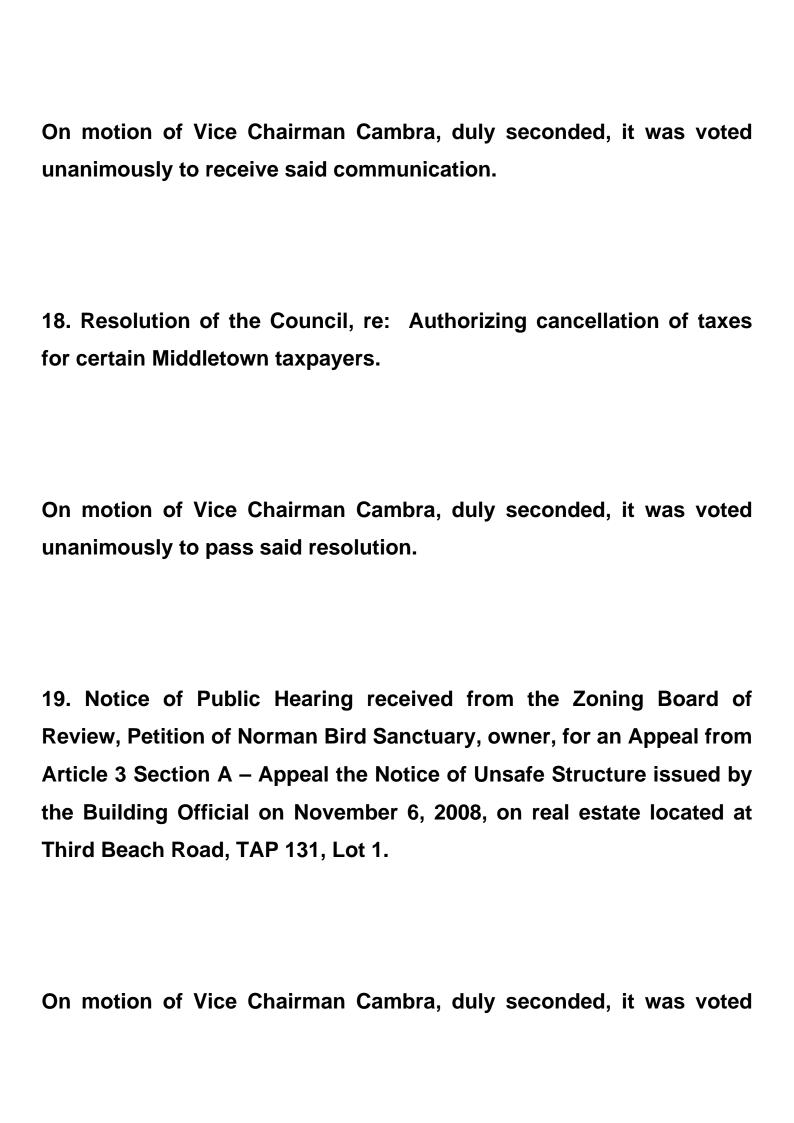






Audit and Financial Statements for GHGRI.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.
13. Communication of Town Administrator, with enclosures, re: Tax Collector's Report for period ending October 31, 2008.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and report.
14. Communication of Town Administrator, with enclosures, re: Financial Statements for period ending September 30, 2008.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and financial statements.





unanimously to receive said notice.
20. Application of Bucks & Dough Enterprises, Inc. d/b/a Domino's Pizza, 19 West Main Road, for RENEWAL of Victualling House License for the 2008-2009 licensing year.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license renewal.
21. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, re: Requesting the Town Council to consider amending the Middletown Zoning Ordinance, Section 602, Table 6-1-Zoning Districted Permitted Uses regarding "Church or other place of worship". (Requires advertising for Public Hearing)
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and advertise the proposed amendment for hearing to be held at the January 5, 2009

regular meeting of the Council.

22. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, with enclosures, re: Proposed amendment to the Middletown Zoning Ordinance – Wind Energy Conversion Facilities. (Requires advertising for Public Hearing)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and advertise the proposed amendment for hearing to be held at the January 20, 2009 regular meeting of the Council.

23. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, with enclosures, re: Request for advisory recommendation on a proposal to amend the Middletown Zoning Ordinance, Article 4 and Article 22 regarding Senior Independent Living Facilities. (Requires advertising for Public Hearing)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and advertise the proposed amendment for hearing to be held at the January 5, 2009 regular meeting of the Council.

### TOWN COUNCIL

Councillor Silveira recused himself from the following item of business, due to a possible conflict of interest.

1. Application of Jan and Michelle Eckhart dba Sweet Berry Farm, 915 Mitchell's Lane, for a Victualling House License for the 2008-2009 licensing year. (NEW)

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to grant said license, contingent upon Building Official, Fire Marshall, Board of Health and Public Works approvals.

2. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, re: Planning Board advisory recommendation on a proposal to amend the Middletown Zoning Ordinance Section 602, Table 6-1, Zoning District Permitted Uses, regarding two-family dwellings (duplex).

Councillor Silveira noted his support of the Planning Board recommendation that the proposed amendment regarding the two-family dwellings (duplex) not be adopted.

Town Planner Ronald Wolanski addressed the Council reviewing the previous Council meeting when the Council requested the Planning Board opinion. Mr. Wolanski noted that this type of change could add several hundred dwelling units and is not consistent with the Town's Comprehensive Plan.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

3. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, re: Request of the Town Council for an advisory recommendation on a proposal to amend the Middletown Zoning Ordinance Section 602, Zoning District Permitted Uses, regarding Day nursery school, kindergarten, or other agency giving daycare.

Councillor Sylvia and Councillor Silveira noted their support of the Planning Board recommendation that the proposed amendment regarding Day nursery school, kindergarten, or other agency giving daycare not be adopted.

Carol Cummings, 738 Indian Avenue, addressed the Council noting that she does not agree with the Planning Board.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum.

4. Communication of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, re: Requesting approval of proposed amendments to the Rules and Regulations regarding Subdivision and Development of Land.

Arthur Benner, 3 Namquid Drive, noted that when serving on the Roads and Unities Committee, the committee suggested that all utility establishments supply in writing that work has been completed. Mr. Benner is concerned with projects not being completed.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said communication.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to approve the proposed amendments to the Rules and Regulations regarding Subdivision and Development of Land.

### 5. Continued from Special Meeting, November 22, 2008

Communication of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, re: Establishing a sub-committee for Middletown Comprehensive Community Plan.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to establish a sub-committee for the Middletown Comprehensive Community Plan Update.

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to appoint Vice Chairman Cambra to the Middletown Comprehensive Community Plan Update Committee.

On motion of Councillor Santos, duly seconded, it was voted

unanimously to appoint Councillor VonVillas to the Middletown Comprehensive Community Plan Update Committee.

Council requested the Town Clerk to notify the Zoning Board of Review, Conservation Commission, Open Space & Fields Committee, Beach Commission, Economic Development Advisory Committee and Roads & Utilities Advisory Committee requesting representation from the committees for the newly established Comprehensive Community Plan Update Committee.

6. Communication of Antone Viveiros, 110 Indian Hill Road, re: Request to address the Council pertaining to the scheduling of Saturday meetings of the Town Council.

Antone Viveiros, 110 Indian Hill Road, noted his concern with the Council scheduling Saturday meetings and the public being unable to speak at the meetings. Mr. Viveiros believes the business conducted should have been conducted at a regular meeting.

Councillor Silveira, responding to Mr. Viveiros' concerns noted that the meeting was a transitional meeting and that was the only time the meeting could be held. He also noted this is all part of the process of working together.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said communication.

7. Communication of Antone Viveiros, 110 Indian Hill Road, re: Request to discuss potential loss of State reimbursement of tax rate stabilization monies.

Antone Viveiros, 110 Indian Hill Road, noted that he covered all his remarks when speaking about the Town Administrator's memo to Freeze spending.

On motion of Vice Chairman Cambra, duly seconded, it was voted

unanimously to receive said communication.
8. Communication of Town Administrator, re: FY2009 Fee Increases.
Town Administrator Shawn Brown noted that the fee increases within the next (4) four ordinances are fees that were approved by the previous Council. If the ordinance is not adopted, then the FY2009 budget will change.
Councillor Santos expressed concern of the fee increases for taxpayers which are struggling to pay their bills and requests that the beach rates not increase.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

# 9. An Ordinance of the Town of Middletown (First Reading)

An ordinance in amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section (33) Beach Fees.

On motion of Vice Chairman Cambra, duly seconded, it was voted to receive said ordinance on its first reading; Counicllor Santos voted NO to said motion.

# 10. An Ordinance of the Town of Middletown (First Reading)

An ordinance in amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section (34) Campground Fees.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

# 11. An Ordinance of the Town of Middletown (First Reading)

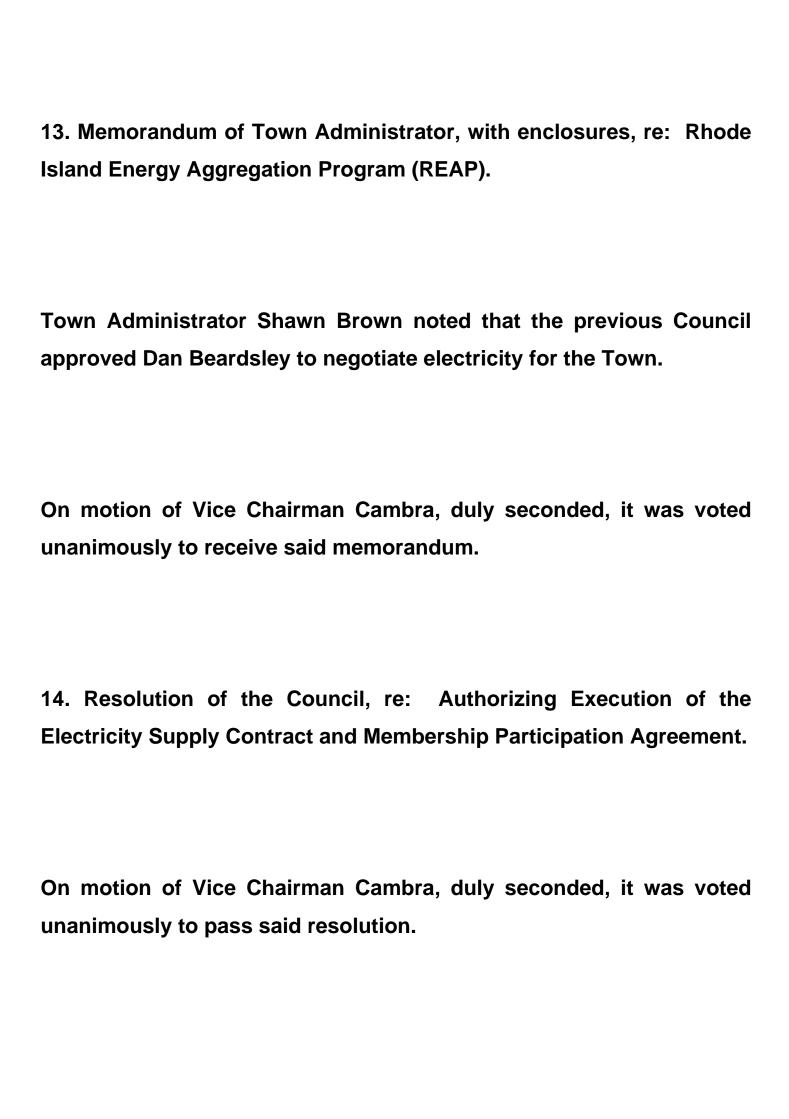
An ordinance in amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section (51) Public Safety Private Detail Billing Rates.

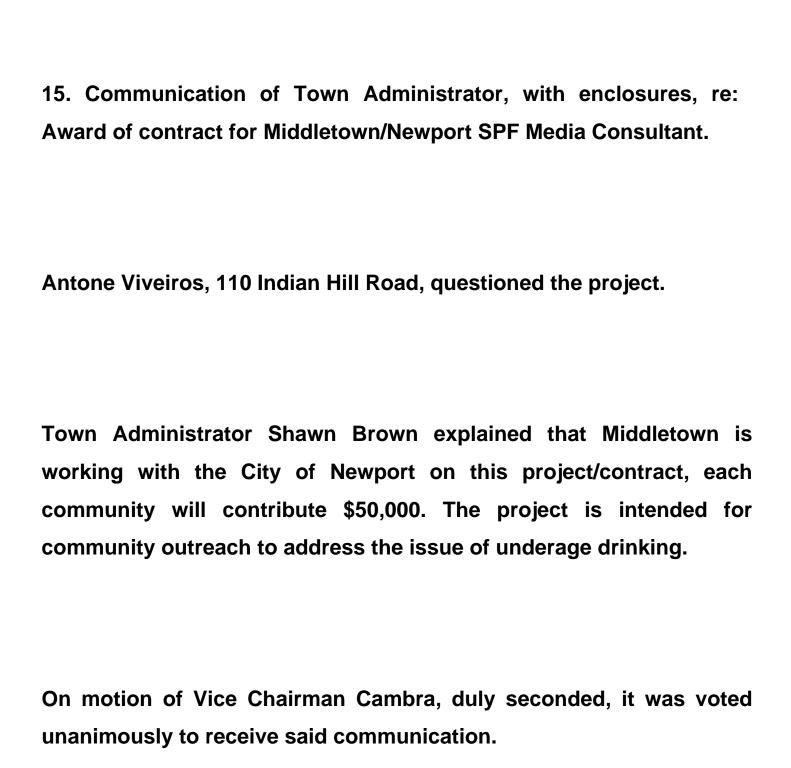
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

# 12. An Ordinance of the Town of Middletown (First Reading)

An ordinance in amendment to the Town Code of the Town of Middletown, Title V Public Works, Chapter 50 Garbage and Refuse, Section (50.44) Obligations of Residents.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said ordinance on its first reading.





16. Resolution of the Council, re: Award of contract for

Middletown/Newport SPF Media Consultant.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

17. Communication of Town Administrator, with enclosures, re:

Award of contract for Pavement Management - Asphalt Patching.

Town Administrator Shawn Brown reviewed the contract for Pavement Management – Asphalt Patching noting the contract will repair roads within the Town. The Department of Public Works has identified roads in need of repair.

Councillor Bozyan questioned the cost of police detail identified in the proposal.

Responding to Councillor Bozyan, Town Administrator Shawn Brown noted that the police detail is taken care of internally. The bid was prepared by the City of Newport and the police are not part of the

contract.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.
18. Resolution of the Council re: Award of contract for Pavement Management – Asphalt Patching.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.
19. Communication of Town Administrator, with enclosures, re: Award of contract for Linden School Asbestos Abatement & Demolition. (The proposal referenced in the communication is on file in the Office of the Town Clerk.)

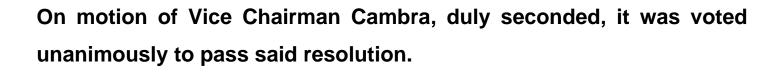
Manuel Mello, 31 Beacon Terrace North, noted that he does not agree with this bid. Mr. Mello questioned if the bid includes all work necessary for the project to be completed. Mr. Mello requests the Council not to act on this award of contract at this time.

Town Engineer Warren Hall addressed the Council noting that he has met with the bidder and the total scope of the project has been covered in this bid.

Town Administrator Shawn Brown noted that the Town does require a performance bond for the project.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

20. Resolution of the Council, re: Award of contract for Linden School Asbestos Abatement & Demolition.

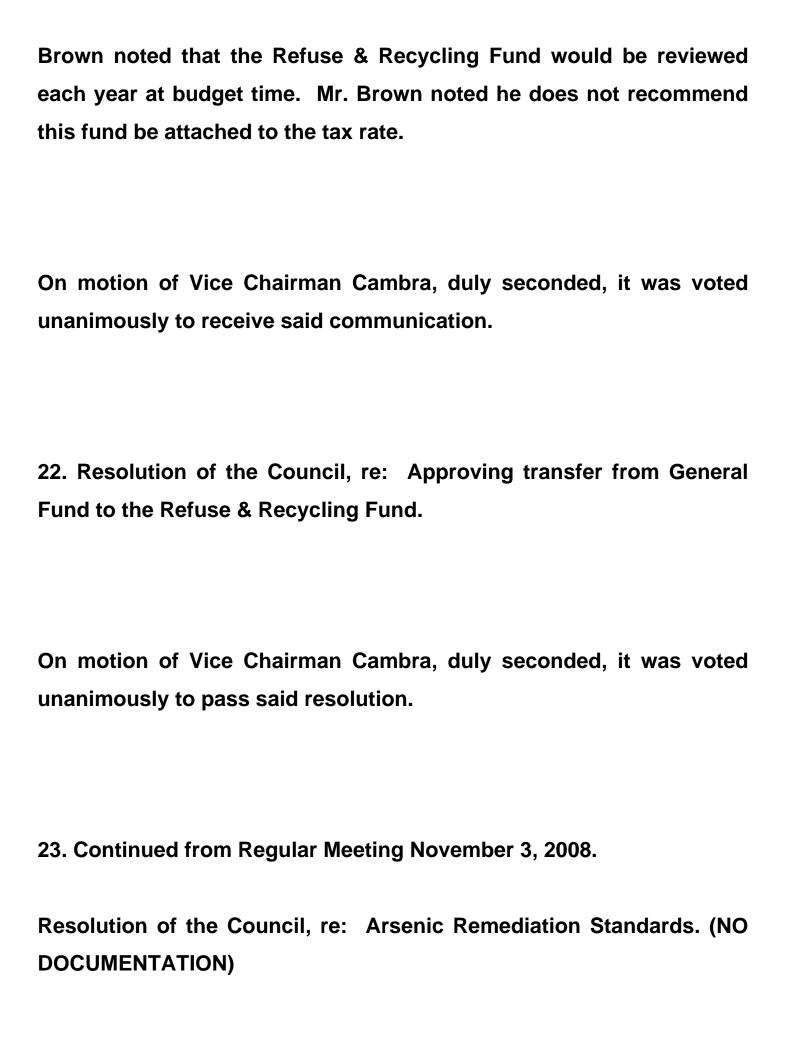


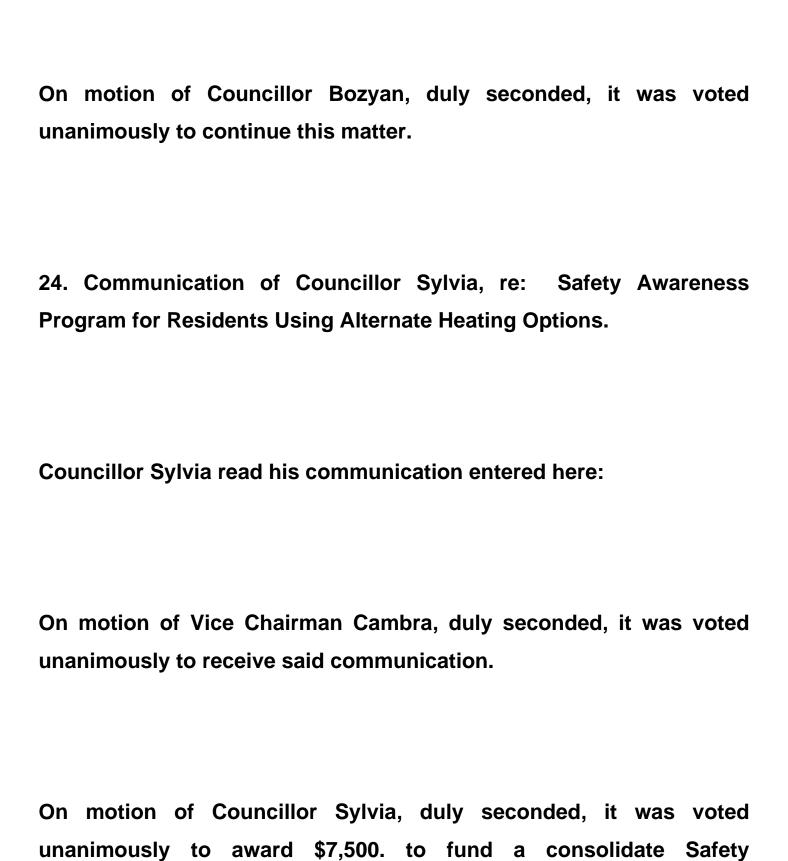
21. Communication of Town Administrator, with enclosures, re: FY2008 Refuse & Recycling Fund deficit.

Town Administrator Shawn Brown explained that currently there is a deficit within the FY2008 Refuse & Recycling Fund and the resolution will appropriate money from the general fund to eliminate this deficit. The Town has a three (3) year contract with Waste Management and we are now in year two (2), however, negotiations are continuing.

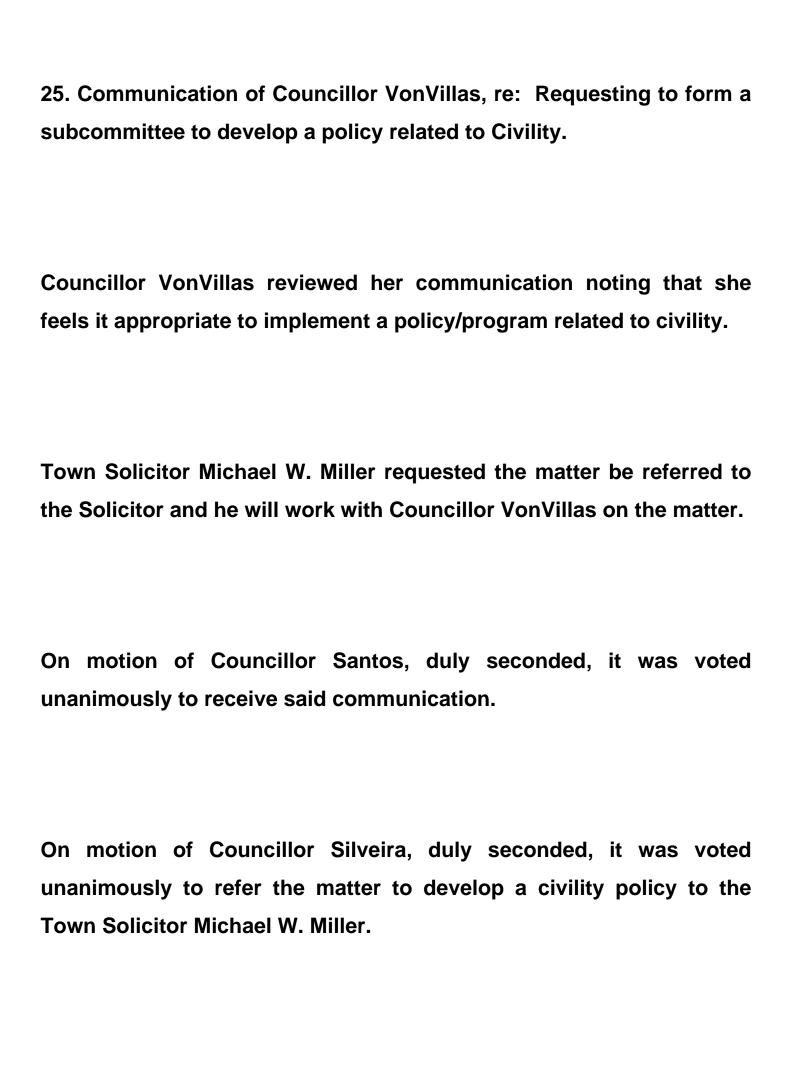
Councillor VonVillas questioned when the appropriate time to review the Refuse & Recycling Fund.

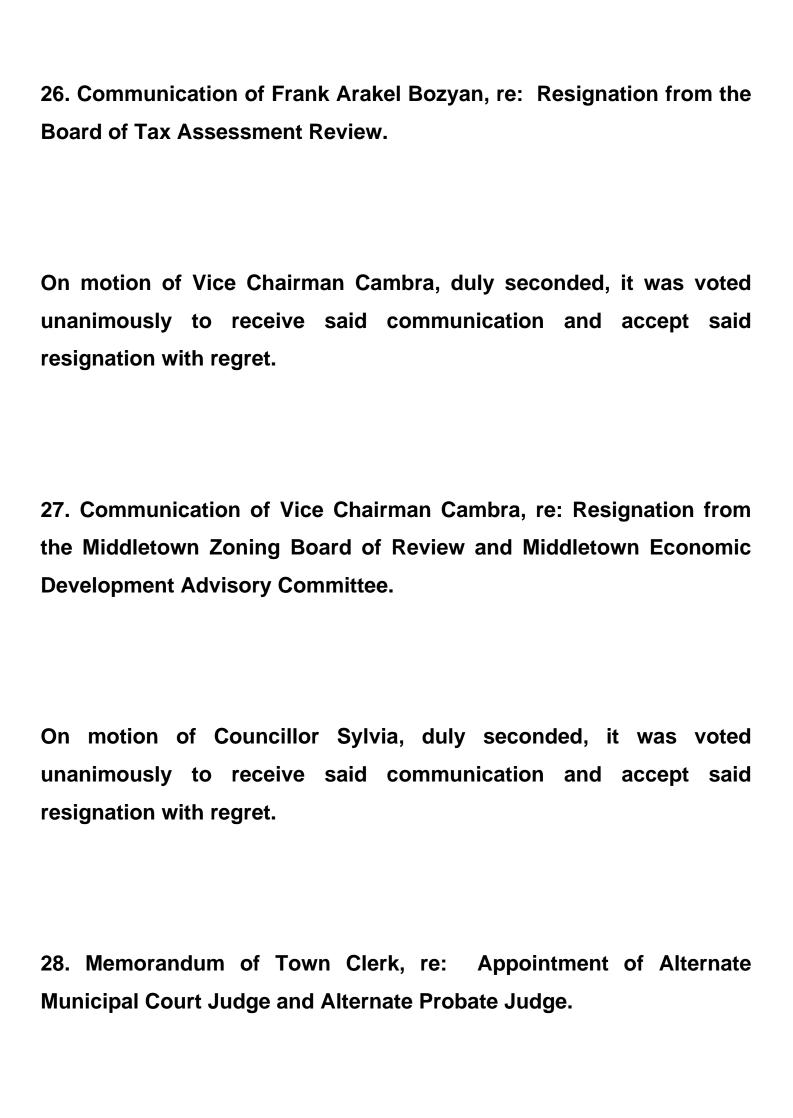
Responding to Councillor VonVillas, Town Administrator Shawn





Awareness Program by our School Department and Fire Department.





On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Michael W. Miller as alternate Municipal Court Judge.
On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Peter B. Regan as alternate Probate Judge.
29. Appointment of one (1) member to the Middletown Technology Advisory Committee for a term expiring September 2009.
On motion of Councillor Santos, duly seconded, it was voted unanimously to reappoint George H. Steele to said board, for a term

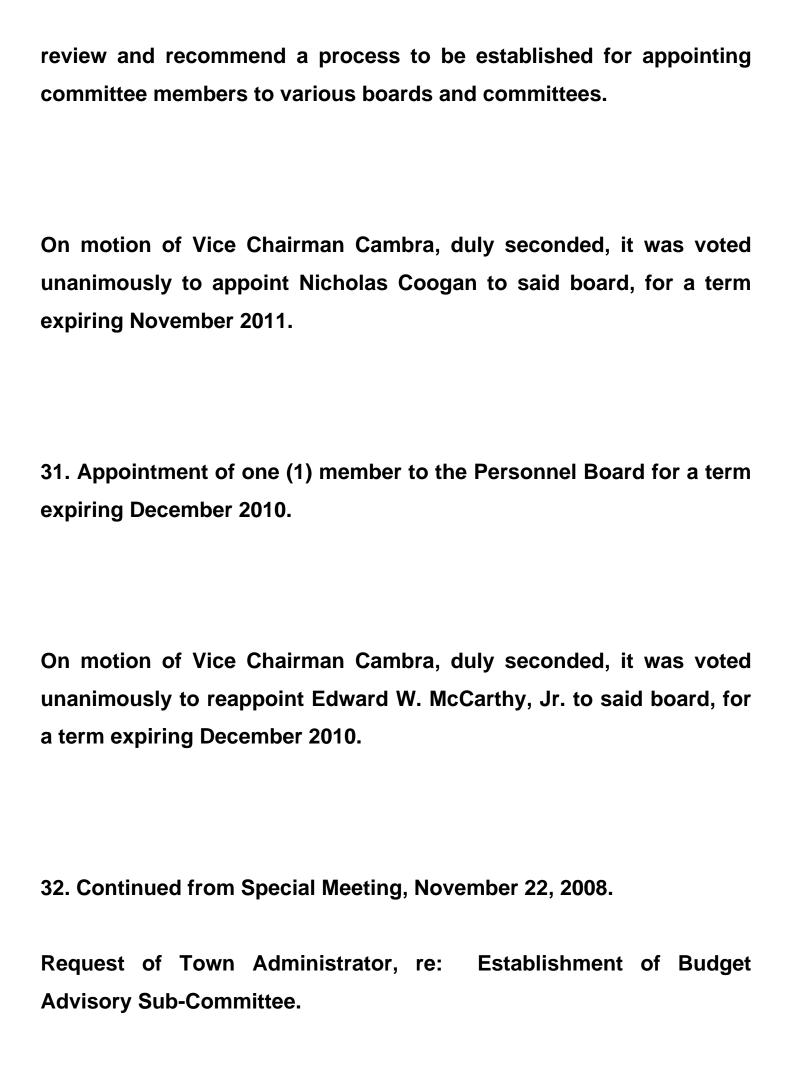
expiring September 2009.

30. Appointment of one (1) member to the Open Space and Fields Committee for a term expiring November 2011.

Vice Chairman Cambra expressed the importance to establish a process to appoint committee members to the various boards/committees. Mr. Cambra requests the Council to consider the process used by Burrillville.

Councillor Silveira noted his agreement however believes that the Council should move forward with the appointment to the Open Space and Fields Committee and forward the request to establish a process to appoint committee members to the Town Solicitor and Town Administrator.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to request the Town Solicitor and Town Administrator to



Town Administrator Shawn Brown noted that this committee would enable him to have more discussion pertaining to the budget with Council members before he submits the budget to the entire Council.

Antone Viveiros, 110 Indian Hill Road, addressed the Council expressing his support for this type of sub-committee, however, believes that other communities have members of the public on the committee.

It was the consensus of the Council to support the establishment of this sub-committee.

On motion of Councillor Bozyan, duly seconded, it was voted unanimously to receive said request and establish a Budget Advisory Sub-Committee to assist the Town Administrator on the Town's Capital Improvement Plan and annual budget prior to its submission the Town Council.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Councillor Sylvia to the Budget Advisory Sub-Committee.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to appoint Councillor Bozyan to the Budget Advisory Sub-Committee.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Council President Semonelli to the Budget Advisory Sub-Committee.

33. Continued from Special Meeting, November 22, 2008

Memorandum of Town Administrator, with enclosures, re: Establishment of Audit Committee.

Town Administrator Shawn Brown explained that because of new audit standards this committee should be established and would need to meet immediately.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said memorandum and establish an Audit Committee.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to appoint Councillor Silveira to the Audit Committee.

On motion of Council President Semonelli, duly seconded, it was voted unanimously to appoint Councillor VonVillas to the Audit Committee.

On motion of Councillor Silveira, duly seconded, it was voted

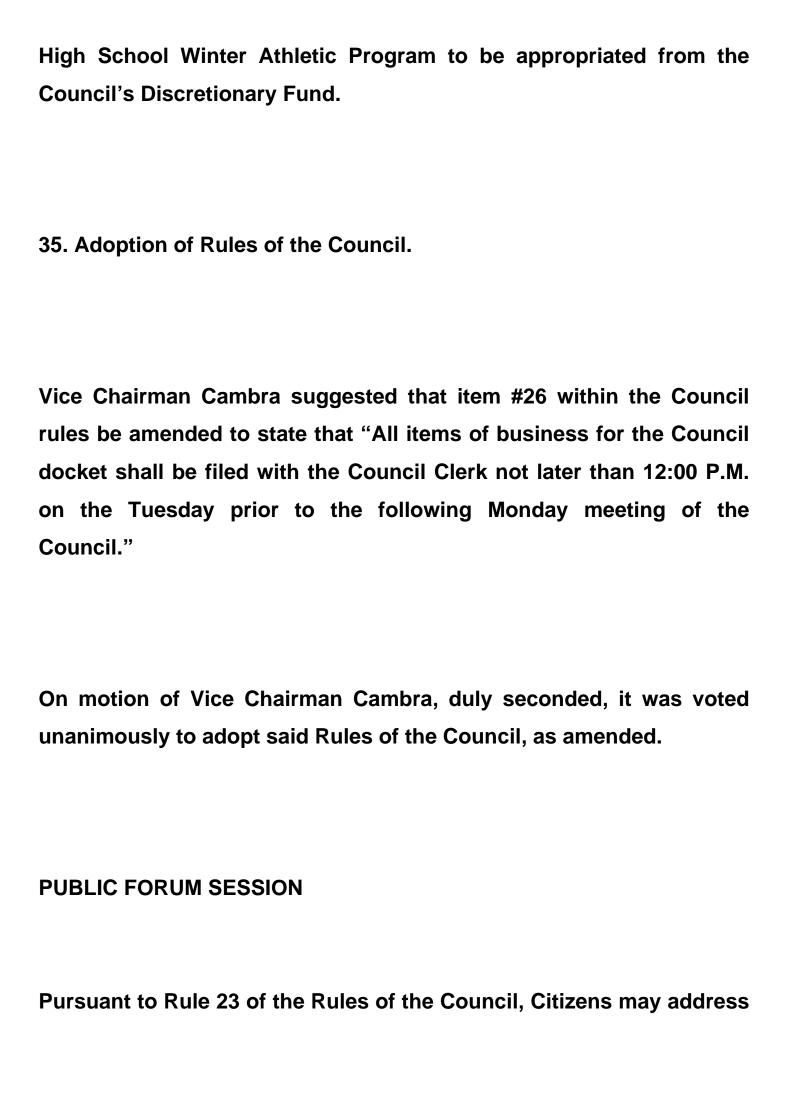
unanimously to appoint Council President Semonelli to the Audit Committee.

Antone Viveiros, 110 Indian Hill Road, noted that he does not support the establishment of the proposed Audit Committee because he believes the Town Council should not be involved. Mr. Viveiros believes the committee should consist of one Council member and two members of the public.

34. Communication of Eric Godin, Athletic Director, Middletown High School, re: Request for support by placing an ad in the Winter Athletic Program.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to approve a ¼ page ad (cost \$195.) in the Middletown



the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

No one addressed the Council during this session.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to adjourn this meeting at 8:50 P.M.

Wendy J.W. Marshall, CMC

**Council Clerk**